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DYKAS, SHAVER & NIPPER, LLP P.O. BOX 877 BOISE, ID 83701-0877			CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/050,400

Applicant(s)

MICHAELSON ET AL.

Examiner

MONZER R. CHORBAJI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,4,5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,5 and 7-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

**This final action is in response to the amendment received on 01/13/2006**

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2, 7, 9-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502).

With respect to claim 2, the Temple reference discloses a rigid transport rack (figure 4:10 and col.1, lines 17-18), which is stiff and in a fixed position when unfolded and loaded with containers. The rigid transport rack includes the following: pair of opposing side walls (figure 4:18 and 17), bottom (bottom horizontal shelf in figure 3) and a back wall (back wall in figure 1 which is made up of 24 and 23), all interconnected for forming a rectangular box of a pre-selected dimension (col.3, lines 55-58 and col.3, lines 65-67 and col.4, lines 1-2), opposing side walls and back and bottom walls each having plurality of holes (for example, figure 1:18, 17, back wall which is made up of 24 and 23), rack is open to the front and the top (figure 4:C), pair of horizontally disposed flanges attached to the tops of the opposing side walls (figure 3:28, 18 and 17), each of flanges having a hole therein (28 in figure 3 has unlabeled hole within it), horizontal shelf attached to opposing side walls (upper shelf in figure 3 is attached to opposing side walls 17 and 18), the horizontal shelves are capable of supporting plurality of cassettes and a plurality of cassettes adapted for placement upon the shelf and the bottom (figure 4:C). However, the Temple reference fails to teach that the cartons have hinged tops. The Spencer reference discloses a cassette with a hinged top (figure 1:10, 24 and 47). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including a hinged top as taught by the Spencer reference since

the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claim 7, the Temple reference fails to teach that the rectangular cassettes (figure 4:C) include a pair of opposing latches for releasably securing the hinged top to the cassette; however the Spencer reference discloses a pair of opposing latches (figure 1:42) such that opposing pressure must be simultaneously applied to each latch so that the latches and the top are released (figure 1:44, 46 and 24). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including a latch mechanism as taught by the Spencer reference in order to secure dental instruments within the cassette (col.4, lines 48-50).

With respect to claims 9-10 and 14, the Temple reference teaches that the size and the number of shelves can be modified (col.3, lines 65-67 and col.4, lines 1-2) to accommodate for various sizes of cassettes whose bottom wall is the means for supporting various items including dental or orthodontic tools. As a result, the shelves are capable of supporting any number of cassettes with different dimensions.

5. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Williams et al (U.S.P.N. 4,915,913).

With respect to claims 15-6, both the Temple reference and the Spencer reference fail to teach placing indicia on the cassettes; however, the Williams reference teaches placing indicia on cassettes that include information about the contents of the

cassette (col.9, lines 58-64). Furthermore, the Williams reference teaches using means (col.2, lines 11-12) for color-coding the cassettes (col.2, lines 14-19). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including identification cards on the cassettes as taught by the Williams reference so that a user will identify the contents of the cassettes without opening them (col.9, lines 60-64).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Remington (U.S.P.N. 4,364,150).

With respect to claim 4, the Temple reference teaches a top handle having a horizontally oriented rail (figure 4:22 has unlabeled horizontally oriented top bar) is capable upon attachment to the rack to receive and vertically hold plurality of dental or orthodontic pliers. In addition, the Temple reference discloses a top handle (figure 4, unlabeled horizontal part of 22) having a pair of opposing and downwardly extending wires (figure 4, unlabeled downwardly extending left and right parts of 22). The Temple reference fails to teach a top handle having upwardly extending pins such that the downwardly extending plates interfit underneath opposing flanges with the upwardly extending pins interfitting within the holes of the flanges. The Spencer reference fails to teach a top handle having a pair of opposing and downwardly extending plates with upwardly extending pins. The Remington reference, which is in the art of designing handles, teaches a top handle (figure 1:20) with a horizontal rail (figure 1:28) having the following: a pair of opposing and downwardly extending plates (figure 1:42), upwardly

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extending pins (figure 2:66), top handle configured to interfit underneath opposing flanges (figure 2:30 and the unlabeled rib or rim of the upper part of 38 is construed as flange) and the upwardly extending pins (figure 4:66) interfitting within the holes of the flange (figure 4:70). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the handle structure of the Temple reference with the handle assembly of the Remington reference in order to design handles that have good strength with low production costs (Remington reference, col.6, lines 57-64).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Rouse (U.S.P.N. 5,006,066) and Jerge et al (U.S.P.N. 4,541,992).

With respect to claim 5, both the Temple reference and the Spencer reference fail to teach a side handle for insertion into its transport rack; however, the Rouse reference, which is in the art of designing holders for dental devices teaches a side handle (figure 2:11) that includes the following: a pair of horizontally disposed insertion rails (figure 2:74, 76, 75 and 77), each having an outwardly extending engagement connection (figure 2:72 and 73), insertion rails attached to a front rail (in figure 2, 74, 76, 75 and 77 are attached to a front rail the connection area between 72, 73 and inner surface of 16 and 17), downwardly extending lever handle (figure 2:16 and 17) attached to the front rail and the insertion rails designed for insertion into the rack (col.6, lines 15-30). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the transport rack of the Temple reference by

including dental burr holders as disclosed by the Rouse reference since the improved burr holder functions to protect the delicate dental burr cutting ends and which provides a convenient holder for supporting the dental burrs between uses (col.2, lines 39-43).

With respect to claim 5, the Rouse reference teaches insertion rails (figure 2:74, 76, 75 and 77) having an outwardly extending engagement connection, but fails to teach insertion rails having upwardly extending engagement pin. The Jerge reference teaches the use of an upwardly extending engagement pin (figure 9:64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the engagement pin of the Jerge reference for the outwardly extending engagement connection of the Rouse and place the side handle of the Rouse reference on the transport rack of the Temple reference since the latch pieces are slidable to and from latching and unlatching positions (col.3, lines 33-37).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Kudla et al (U.S.P.N. 5,215,726).

With respect to claim 8, both the Temple reference and the Spencer reference fail to teach a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open. The Kudla reference teaches a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open (figure 1:20 where the cassette is in closed position, figure 2:40 and co.5, lines 42-58). Thus, it



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would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassettes of the Temple reference with cassettes that includes clamping members as taught by the Kudla reference since when the clamping member is in closed position it holds instruments in place (col.5, lines 52-58).

9. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Wittrock et al (U.S.P.N. 5,482,067).

With respect to claims 11-12, the Temple reference teaches rectangular cassettes (figure 4:C), but fails to teach a rectangular cassette having the following: a hinged top, walls having plurality of holes, the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover. The Spencer reference discloses a rectangular cassette having a hinged top with walls having plurality of holes (figure 1:10 and 36). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claims 11-12, the Spencer reference fails to teach that the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover; however, the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) dividing the end wall (unlabeled end wall in figure 2) into upper (figure 2,

unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom 14) halves and a second hinge (figure 2:60) connecting the upper half of the end wall to the top cover (figure 2:12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

**10.** Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502), Wittrock et al (U.S.P.N. 5,482,067) as applied to claim 11 and further in view of Dabich (U.S.P.N. 4,535,908).

With respect to claim 13, both the Temple reference and the Spencer reference fail to teach the use of double hinge with cassettes, but the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) interconnected to the end wall and the top cover (figure 2:62 and 42) and a second hinge (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Spencer reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

With respect to claim 13, the Wittrock reference fails to teach that the first hinge divides the top cover into two interconnected pieces; however, the Dabich reference, which is in the art of designing lids teaches the use of a double hinge lids where the first hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including double hinge closing mechanism that provides two interconnected lids as taught by the Dabich reference since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Temple (U.S.P.N. 2,680,522) in view of Spencer et al (U.S.P.N. 5,759,502), as applied to claim 2 and further in view of Chen (U.S.P.N. 5,154,611).

With respect to claim 17, both the Temple reference and the Spencer reference fail to teach the use of an orthodontic band or dental tray for holding plurality of different bands or dental crowns. The Chen reference teaches the use of an endodontic instrument tray (figure 4:30 and 50) that includes the following: bottom plate (figure 4, unlabeled bottom for tray 50), pair of opposing side walls (figure 4, unlabeled side walls for tray 50), front wall (figure 4, unlabeled front and back walls for tray 50), plurality of interior divider walls (figure 4, unlabeled interior divider walls), made of a heat resistant material (col.5, lines 35-39) and the bottom plate having plurality of holes (figure 4, 64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including endodontic instrument

cassettes as taught by the Chen reference so that endodontic instruments used for root canal treatment can be stored in a container (col.2, lines 36-43).

**12.** Claims 2, 7, 9-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502).

With respect to claim 2, the Ochs reference discloses a rigid transport rack (figure 1, col.1, lines 15-16 and col.1, lines 50-55) that includes the following: a pair to opposing side walls (figure 1:12), bottom (figure 1:8) and a back wall (figure 1:13), all interconnected for forming a rectangular box of a pre-selected dimension (col.1, lines 12-14), opposing side walls and back and bottom walls each having plurality of holes (col.1, lines 65-68), rack is open to the front and the top (see figure 1), a pair of horizontally disposed side flanges (unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21 on both sides of the rigid transport rack) attached to the tops (figure 1:9 and 16) of the side walls (figure 1:12) where each of opposing flanges has one hole therein (hole within the side flange of unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21), a horizontal shelf attached to opposing side walls (figure 1:20) and a plurality of cassettes (col.1, lines 12-14). However, the Ochs reference fails to teach that the packages have hinged tops. The Spencer reference discloses a cassette with a hinged top (figure 1:10, 24 and 47). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including a hinged top as taught by the Spencer reference since the hinge

assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claim 7, the Ochs reference fails to teach that the packages include a pair of opposing latches for releasably securing the hinged top to the cassette; however the Spencer reference discloses a pair of opposing latches (figure 1:42) such that opposing pressure must be simultaneously applied to each latch so that the latches and the top are released (figure 1:44, 46 and 24). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the rack of the Ochs reference by including a latch mechanism as taught by the Spencer reference in order to secure dental instruments within the cassette (col.4, lines 48-50).

With respect to claims 9-10 and 14, the Ochs reference teaches that the of the rack and can be modified (col.3, lines 65-67 and col.4, lines 1-2) to accommodate for various sizes of packages whose bottom wall is the means for supporting various items including dental or orthodontic tools. As a result, the shelves are capable of supporting any number of packages or cassettes with different dimensions.

**13.** Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Williams et al (U.S.P.N. 4,915,913).

With respect to claims 15-6, both the Ochs reference and the Spencer reference fail to teach placing indicia on the packages; however, the Williams reference teaches placing indicia on cassettes that include information about the contents of the cassette (col.9, lines 58-64). Furthermore, the Williams reference teaches using means (col.2,

lines 11-12) for color-coding the cassettes (col.2; lines 14-19). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the package of the Ochs reference by including identification cards on the cassettes as taught by the Williams reference so that a user will identify the contents of the cassettes without opening them (col.9, lines 60-64).

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Remington (U.S.P.N. 4,364,150).

With respect to claim 4, the Ochs reference teaches a top handle having a horizontally oriented rail (figure 1:17) such that the top handle in combination with the rigid rack is capable of receiving and vertically holding plurality of dental or orthodontic pliers. The Ochs reference fails to teach a top handle having a pair of opposing and downwardly extending plates and also having upwardly extending pins such that the handle interfits underneath the opposing flanges. The Spencer reference also fails to teach a top handle having a pair of opposing and downwardly extending plates with upwardly extending pins. The Remington reference, which is in the art of designing handles, teaches a top handle (figure 1:20) with a horizontal rail (figure 1:28) having the following: a pair of opposing and downwardly extending plates (figure 1:42), upwardly extending pins (figure 2:66), top handle configured to interfit underneath opposing flanges (figure 2:30 and the unlabeled rib or rim of the upper part of 38 is construed as flange) and the upwardly extending pins (figure 4:66) interfitting within the holes of the flange (figure 4:70). Thus, it would have been obvious to one having ordinary skill in the

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art at the time the invention was made to substitute the handle structure of the Ochs reference with the handle assembly of the Remington reference in order to design handles that have good strength with low production costs (Remington reference, col.6, lines 57-64).

**15.** Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 2 and further in view of Rouse (U.S.P.N. 5,006,066) and Jerge et al (U.S.P.N. 4,541,992).

With respect to claim 5, both the Ochs reference and the Spencer reference fail to teach a side handle for insertion into its transport rack; however, the Rouse reference, which is in the art of designing holders for dental devices teaches a side handle (figure 2:11) that includes the following: a pair of horizontally disposed insertion rails (figure 2:74, 76, 75 and 77), each having an outwardly extending engagement connection (figure 2:72 and 73), insertion rails attached to a front rail (in figure 2, 74, 76, 75 and 77 are attached to a front rail the connection area between 72, 73 and inner surface of 16 and 17), downwardly extending lever handle (figure 2:16 and 17) attached to the front rail and the insertion rails designed for insertion into the rack (col.6, lines 15-30). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the transport rack of the Ochs reference by including dental burr holders as disclosed by the Rouse reference since the improved burr holder functions to protect the delicate dental burr cutting ends and which provides a convenient holder for supporting the dental burrs between uses (col.2, lines 39-43).

With respect to claim 5, the Rouse reference teaches insertion rails (figure 2:74, 76, 75 and 77) having an outwardly extending engagement connection, but fails to teach insertion rails having upwardly extending engagement pin. The Jerge reference teaches the use of an upwardly extending engagement pin (figure 9:64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the engagement pin of the Jerge reference for the outwardly extending engagement connection of the Rouse and place the side handle of the Rouse reference on the transport rack of the Ochs reference since the latch pieces are slidable to and from latching and unlatching positions (col.3, lines 33-37).

**16.** Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Kudla et al (U.S.P.N. 5,215,726).

With respect to claim 8, both the Ochs reference and the Spencer reference fail to teach a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open. The Kudla reference teaches a plier rack pivotally mounted within the cassette and configured to lay within the cassette when the hinged top is closed and to pivot to an upright position when the hinged top is open (figure 1:20 where the cassette is in closed position, figure 2:40 and co.5, lines 42-58). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassettes of the Ochs reference with cassettes that includes clamping



members as taught by the Kudla reference since when the clamping member is in closed position it holds instruments in place (col.5, lines 52-58).

17. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502) as applied to claim 7 and further in view of Wittrock et al (U.S.P.N. 5,482,067).

With respect to claims 11-12, the Ochs reference teaches that packages (i.e., cassettes) or other articles of various sizes are placed in the rigid rack (col.1, lines 12-14), but fails to teach a rectangular cassette having the following: a hinged top, walls having plurality of holes, the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover. The Spencer reference discloses a rectangular cassette having a hinged top with walls having plurality of holes (figure 1:10 and 36). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

With respect to claims 11-12, the Spencer reference fails to teach that the hinge is a double hinge that includes a first horizontally oriented hinge and a second hinge connecting the upper half of the wall to the top cover; however, the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) dividing the end wall (unlabeled end wall in figure 2) into upper (figure 2, unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom

14) halves and a second hinge (figure 2:60) connecting the upper half of the end wall to the top cover (figure 2:12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

18. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502), Wittrock et al (U.S.P.N. 5,482,067) as applied to claim 11 and further in view of Dabich (U.S.P.N. 4,535,908).

With respect to claim 13, both the Ochs reference and the Spencer reference fail to teach the use of double hinge with cassettes, but the Wittrock discloses a double hinge (figure 2:40, 14 and 12) that includes a first horizontally oriented hinge (figure 2:62) interconnected to the end wall and the top cover (figure 2:62 and 42) and a second hinge (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including double hinge closing mechanism as taught by the Wittrock reference since double hinge prevents misalignment of the frames during transition from the open or closed modes or vice versa (col.1, lines 56-61).

With respect to claim 13, the Wittrock reference fails to teach that the first hinge divides the top cover into two interconnected pieces; however, the Dabich reference, which is in the art of designing lids teaches the use of a double hinge lids where the first hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including double hinge closing mechanism that provides two interconnected lids as taught by the Dabich reference since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

19. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochs (U.S.P.N. 3,007,708) in view of Spencer et al (U.S.P.N. 5,759,502), as applied to claim 2 and further in view of Chen (U.S.P.N. 5,154,611).

With respect to claim 17, both the Ochs reference and the Spencer reference fail to teach the use of an orthodontic band or dental tray for holding plurality of different bands or dental crowns. The Chen reference teaches the use of an endodontic instrument tray (figure 4:30 and 50) that includes the following: bottom plate (figure 4, unlabeled bottom for tray 50), pair of opposing side walls (figure 4, unlabeled side walls for tray 50), front wall (figure 4, unlabeled front and back walls for tray 50), plurality of interior divider walls (figure 4, unlabeled interior divider walls), made of a heat resistant material (col.5, lines 35-39) and the bottom plate having plurality of holes (figure 4, 64). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including endodontic instrument

cassettes as taught by the Chen reference so that endodontic instruments used for root canal treatment can be stored in a container (col.2, lines 36-43).

***Response to Arguments***

20. Applicant's arguments filed on 01/13/2006 have been fully considered but they are not persuasive.

On page 9 of the Remarks section, applicant argues that, "The Temple device is not rigid, does not contain any flanges which contain holes, does not teach the presence of cassettes that include hinged lid that are configured to fit within the rack itself." The examiner disagrees with the following: the rack of the Temple reference is constructed of wire (col.1, lines 16-20) that is soldered together (col.2, lines 23-27). One of ordinary skill in the art would recognize that the rack is constructed of metallic wires. The Temple reference does not limit the rack to supporting cigarette cartons only; the rack is capable of supporting any type of container (col.1, lines 2-4). Clearly, the Temple's rack once unfolded is rigid since it is not flexible and is fixed in a certain position. With respect to the rack not having flanges or holes, the examiner disagrees since the Temple rack includes a pair of horizontally disposed flanges attached to the tops of the opposing sidewalls (figure 3:28, 18 and 17) and each of flanges having a hole therein (28 in figure 3 has unlabeled hole within it). In addition, the Temple reference teaches a top handle having a horizontally oriented rail (figure 4:22 has unlabeled horizontally oriented top bar) that is capable of receiving and vertically holding plurality of dental or orthodontic pliers placed in the rack. The Temple reference discloses a top handle (figure 4, unlabeled horizontal part of 22) having a pair of

opposing and downwardly extending wires (figure 4, unlabeled downwardly extending left and right parts of 22).

With respect to instant amended claim 4, the Remington (newly applied patent) reference, which is in the art of designing handles is applied to show the following: a top handle (figure 1:20) with a horizontal rail (figure 1:28), a pair of opposing and downwardly extending plates (figure 1:42), upwardly extending pins (figure 2:66), top handle configured to interfit underneath opposing flanges (figure 2:30 and the unlabeled rib or rim of the upper part of 38 is construed as flange) and the upwardly extending pins (figure 4:66) interfitting within the holes of the flange (figure 4:70). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the handle structure of the Temple reference with the handle assembly of the Remington reference in order to design handles that have good strength with low production costs (Remington reference, col.6, lines 57-64).

On page 10 of the Remarks section, applicant argues that, "These features are not shown or described in the Ochs reference. This reference does not teach the presence of any flanges which contain holes, nor does this device teach the presence of cassettes that include hinged lids which are configured to fit within the rack itself." The examiner disagrees with the following: the Ochs reference discloses a rigid transport rack (figure 1, col.1, lines 15-16 and col.1, lines 50-55) that includes a pair of horizontally disposed side flanges (unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21 on both sides of the rigid transport rack) attached to the tops (figure 1:9 and 16) of the side walls (figure 1:12) where each

of opposing flanges has one hole therein (hole within the side flange of unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21), a horizontal shelf attached to opposing side walls (figure 1:20) and a plurality of cassettes (col.1, lines 12-14).

On page 11 of the Remarks section, applicant argues that, "The racks taught in the Temple reference would collapse if and when materials such as the containers shown in the Spencer device were to be placed upon it." The examiner disagrees since the rack of the Temple reference is rigid and is constructed of metal wires as explained above. The metallic rack of the Temple reference is capable of supporting the dental containers of the Spencer reference since in addition, the Temple reference does not limit the rack to supporting cigarette cartons only; the rack is capable of supporting any type of container (col.1, lines 2-4).

On page 11 of the Remarks section, applicant argues that, "there is no motivation or suggestion to combine the Temple and the Spencer references." The examiner disagrees since one having ordinary skill in the art at the time the invention was made would have been motivated to modify the cassette of the Temple reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

On page 13 of the Remarks section, applicant argues that, "However, a close review of the Rouse reference in fact shows that the item identified by the examiner as a side handle, figure 2:11, is in fact a cover for the tops of the dental burr that are placed within the burr block holder." The examiner disagrees. The fact that the Rouse

reference names structure 11 as burr block cover does not exclude others from giving it other reasonable names that satisfies limitations of the claim at issue. Structure 11 of the Rouse reference is a side handle having a downwardly extending lever handles (figure 2:16 and 17). In addition, the side handle (figure 2:11) of the Rouse reference includes an outwardly extending engagement connection (figure 2:72 and 73). The reason being outwardly is because the structures 72 and 73 outwardly extend from the inner surfaces of lever handles 16 and 17.

On page 13 of the Remarks section, applicant argues that, "the Rouse reference also teaches away from the use of an engagement pin as is described in the Jerge patent and thus, the combination of the Rouse reference with the Jerge patent which has been suggested by the examiner is not an obvious modification." The examiner disagrees for two reasons: first being that the combination of the Rouse reference with the Jerge reference is substituting one engagement means for another and does not represent additional parts. Second, one having ordinary skill in the art would have been motivated at the time the invention was made to substitute the engagement pin of the Jerge reference for the outwardly extending engagement connection of the Rouse and place the side handle of the Rouse reference on the transport rack of the Temple reference since the latch pieces are slidable to and from latching and unlatching positions (col.3, lines 33-37).

On page 14 of the Remarks section, applicant argues that, "The Dabich reference is non-analogous prior art." The examiner disagrees since both the subject matter of claim 13 and the Dabich reference are in the art the same endeavor, which is

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designing lids for enclosures. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Temple reference by including double hinge closing mechanism that provides two interconnected lids as taught by the Dabich reference since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

On page 16 of the Remarks section, applicant argues that, "The references themselves simply do not teach this combination." The examiner disagrees. The Ochs reference discloses a rigid transport rack (figure 1, col.1, lines 15-16 and col.1, lines 50-55) that supports a plurality of cassettes (col.1, lines 12-14). However, the Ochs reference fails to teach that the packages have hinged tops. The Spencer reference discloses a cassette with a hinged top (figure 1:10, 24 and 47). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cassette of the Ochs reference by including a hinged top as taught by the Spencer reference since the hinge assemblies cooperate so as to allow the lid to pivot relative to the tray (col.4, lines 36-39).

On page 17 of the Remarks section, applicant argues that, "Among these limitations is the requirement that the transport rack of the invention includes flanges with holes. Neither the Ochs or the Spencer reference teaches this limitation." The examiner disagrees. The Ochs reference discloses a rigid transport rack (figure 1, col.1, lines 15-16 and col.1, lines 50-55) that includes a pair of horizontally disposed side flanges (unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21 on both sides of the rigid transport rack) attached to the tops



(figure 1:9 and 16) of the side walls (figure 1:12) where each of opposing flanges has one hole therein (hole within the side flange of unlabeled horizontal bars in side walls 12 of figure 1 connected vertically to each other with hooks 21).

The responses to the arguments presented above equally apply to the arguments recited on pages 18-21 of the Remarks section with respect to the Ochs reference and its subsequent combinations.

### ***Conclusion***

**21.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Ho (U.S.P.N. 5,771,537) reference, the Soleimani (U.S.P.N. 4,804,943) reference and the Stolarz (U.S.P.N. 4,658,467) reference all teach similar handle assembly as recited in instant claim 4.

**22.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.


**23.** If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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**24.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji  
Patent Examiner  
AU 1744  
03/24/2006

*MRC*

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER